

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
DOCKET NO. 3:01-cr-00036-FDW

UNITED STATES OF AMERICA,)
)
vs.)
)
(1) DAVID PEREZ GARCIA,) ORDER
)
Defendant.)
_____)

THIS MATTER is before the Court on Defendant's pro se Motion to Appoint Counsel (Doc. No. 366). Also before the Court is Defendant's Second Motion to Appoint Counsel (Doc. No. 377).

Beginning with the prior of the two motions, although it is titled "Motion for Appointment of Counsel," see (Doc. No. 366, p. 1), it is also properly treated as a Motion for Reduction in Sentence under the First Step Act. E.g., id. ("[Defendant] suggests that the First Step Act, signed into law by President Donald J. Trump, will afford him relief from his prison sentence."). Accordingly, the Court will treat it as such, and hereby ORDERS the Government to respond to Defendant's motion. The Government shall have **thirty (30) days** from the date of this Order to file its response with the Court. The Government shall advise the United States Probation Office if the Government believes a supplemental Presentence Investigation Report will be required.

With respect to the latter motion, which is more accurately construed as a Motion to Appoint Counsel, criminal defendants have no right to counsel beyond their first appeal. E.g., United States v. Kenny, No. 3:01-cr-00185-FDW, 2020 WL 2094116, at *1 (W.D.N.C. Apr. 30, 2020); United States v. Ismel, No. 3:94-CR-00008-1, 2012 WL 113392, at *1 (W.D. Va. Jan. 13, 2012). Defendant has not shown extraordinary circumstances warranting the appointment of

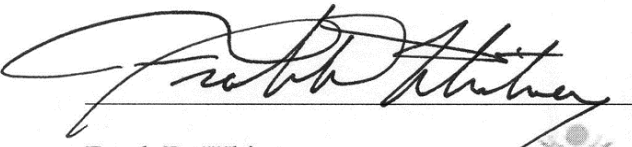
counsel at this time. Accordingly, this motion (Doc. No. 377) is DENIED.

IT IS THEREFORE ORDERED:

1. Defendant's Motion for Appointment of Counsel/Motion for Reduction in Sentence (Doc. No. 366) is DEFERRED IN PART and DENIED IN PART;¹ and
2. Defendant's Motion to Appoint Counsel (Doc. No. 377) is DENIED.

IT IS SO ORDERED.

Signed: July 28, 2020


Frank D. Whitney
United States District Judge

¹ This motion is denied to the extent that it can still be construed as a motion to appoint counsel for the reasons explained above.